

NATURAL RESOURCES CODE
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 32.001. DEFINITIONS. In this chapter:

- (1) "Board" means the School Land Board.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.
- (4) "Land" means:
 - (A) land dedicated to the permanent school fund and the asylum funds by the constitution and laws of this state;
 - (B) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state;
 - (C) the mineral estate in river beds and channels; and
 - (D) land owned by the state or held in trust for the use and benefit of the state or of a department, board, or agency of the state.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 4, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 642, Sec. 1, eff. Aug. 26, 1991.

Sec. 32.002. APPLICATION OF CHAPTER. (a) This chapter does not apply to:

- (1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;
- (2) land whose title is vested in the state for the use and benefit of any part of The Texas A&M University System or land under the control of the Board of Regents of The Texas A&M University System;
- (3) minerals subject to lease under Subchapter F, Chapter 52, of this code, commonly known as the Relinquishment Act, and Subchapters B and C, Chapter 53, of this code;
- (4) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well;
- (5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas Transportation Commission has determined that such right-of-way is no longer needed for use by citizens as a road pursuant to Section 202.021, Transportation Code;
- (6) land owned by the Texas Parks and Wildlife Department; or
- (7) land owned by the Texas Board of Criminal Justice.

(b) For purposes of Subsection (a)(4) of this section, land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities as of January 1, 1985.

(c) Oil and gas underlying land not located within a producing area or that is leased for the specific purpose of drilling a horizontal well may be leased under the provisions of Section 32.201 of this code.

(d) If title to land subject to Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act, is acquired by a department, board, or agency of the state, the land shall be leased as provided by Chapter 52 of this code for the leasing of unsold public school land.

(e) If title to land subject to Subchapter C, Chapter 53, of this code is acquired by a department, board, or agency of the state, the land shall be leased as provided by Chapter 53 of this code for the leasing of unsold surveyed public school lands.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 5, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(e), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 642, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 897, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 165, Sec. 22(50), eff. Sept. 1, 1995.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 32.011. CREATION OF BOARD. There is created a board to be known as the School Land Board.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977.

Sec. 32.012. MEMBERS OF THE BOARD. (a) The board is composed of:

- (1) the commissioner;
- (2) a citizen of the state appointed by the governor with the advice and consent of the senate; and
- (3) a citizen of the state appointed by the attorney general with the advice and consent of the senate.

(b) The authority of the attorney general to appoint one of the members of the board, including the authority to make appointments during the recess of the senate, is the same as the authority of the governor to fill vacancies in state offices under the Texas Constitution.

(c) Each appointment made by the governor and the attorney general shall be made in accordance with and subject to the provisions of the Texas Constitution authorizing the filling of vacancies in state offices by appointment of the governor. Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.0121. APPOINTMENTS WITHOUT DISCRIMINATION. Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 7, eff. Sept. 1, 1985.

Sec. 32.0122. DISQUALIFICATION OF LOBBYISTS. A person who is required to register as a lobbyist under Chapter 305 of the Government Code, by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 8, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.19(20), eff. Sept. 1, 1987.

Sec. 32.0123. CONFLICTS OF INTEREST PROHIBITED. An officer, employee, or paid consultant of a statewide or national trade association in the oil and gas or mining industry may not be a member or employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a statewide or national trade association in the oil and gas or mining industry be a member of the board or an employee of the board grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 9, eff. Sept. 1, 1985.

Sec. 32.013. TERMS OF APPOINTED MEMBERS. The members appointed to the board by the governor and the attorney general serve for terms of two years.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.014. CHAIRMAN OF THE BOARD. The commissioner serves as chairman of the board.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.015. PER DIEM AND REIMBURSEMENT. Each citizen member of the board is entitled to receive a per diem allowance for each day spent in performing his duties and as reimbursement for actual and necessary travel expenses incurred in performing his duties the amount provided in the General Appropriations Act.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.016. BOARD MEETINGS. (a) When necessary, the board shall meet on the first and third Tuesdays of each month in the land office.

(b) Subject to recesses at the discretion of the board, meetings of the board shall continue until the board has completed its docket.

(c) The chairman of the board may call special meetings of the board at any time the chairman thinks necessary by giving the other members notice.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1999, 76th Leg., ch. 139, Sec. 1, eff. Sept. 1, 1999.

Sec. 32.017. SECRETARY OF THE BOARD. (a) The board shall select a secretary from persons nominated by the commissioner.

(b) The person selected as secretary shall be approved by a

majority of the board.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.0171. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of Section 32.012 of this code for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Subsection (a) of Section 32.012 of this code for appointment to the board;

(3) violates a prohibition established by Section 32.0122 or 32.0123 of this code;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(c) If the commissioner has knowledge that a potential ground for removal exists, he shall notify the governor that a potential ground for removal exists.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 10, eff. Sept. 1, 1985.

Sec. 32.018. EMPLOYMENT OF GEOLOGIST AND MINERALOGIST. The commissioner may employ a geologist and a mineralogist who shall be informed about minerals on land under the board's jurisdiction and activities under pending applications and previous leases and sales. The geologist and mineralogist shall report to the board any information relating to these subjects.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 11, eff. Sept. 1, 1985.

Sec. 32.019. BOARD EMPLOYEES. (a) The commissioner may employ additional employees necessary for the discharge of the duties of the board.

(b) Employees of the board shall be considered employees of the land office, and civil and criminal laws regulating the conduct and relations of employees of the land office apply to employees of the board.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.020. MINUTES OF BOARD. The board shall keep minutes which shall include a record of its proceedings and a docket on which the secretary shall enter matters to be considered by the board.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.021. RECORDS AND PROCEEDINGS AS ARCHIVES. The records and proceedings of the board shall be records and archives of the land office.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.022. INSPECTION OF MINUTES AND DOCKET. (a) On payment of the fees prescribed by law for examination of other land office records, the minutes and docket shall be subject to inspection by any citizen of the state who desires to make the examination.

(b) An examination made under this section shall be made in the presence of the secretary of the board or a clerk designated by law.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.024. FINANCIAL REPORT REQUIRED. The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The commissioner shall include the report as part of the report required by Section 31.060 of this code.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 12, eff. Sept. 1, 1985.

Sec. 32.025. AUDIT. The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 13, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 6, eff. Sept. 1, 1989.

Sec. 32.026. POLICIES ON PUBLIC HEARINGS. The board shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 14, eff. Sept. 1, 1985.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 32.061. BOARD'S GENERAL DUTIES. Except as provided by Subchapter G, Chapter 51, of this code, the board shall:

(1) set the dates to open received bids for the sale of surveyed land dedicated to the permanent school fund, for the lease of land for prospecting or exploring for, mining, producing, storing, caring for, transporting, preserving, selling, or disposing of oil, gas, or other minerals leased under this chapter, and for the commitment of land to a contract for development;

(2) determine the prices and set the terms of the contract for which land shall be sold, leased, or committed to a contract for development;

(3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and

(4) perform any other duties which may be required by law.

Acts 1977, 65th Leg., p. 2378, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended Acts 1985, 69th Leg., ch. 624, Sec. 15, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 897, Sec. 2, eff. Sept. 1, 1993.

Sec. 32.062. ADOPTION OF RULES AND COLLECTION OF FEES. (a) The board shall adopt rules of procedure and rules for the sale, lease, and commitment to a contract for development of land as provided by this chapter.

(b) The board by rule shall adopt and shall collect reasonable fees necessary to carry out this chapter.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 16, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 897, Sec. 3, eff. Sept. 1, 1993.

Sec. 32.063. DUTY TO ADVISE COMMISSIONER. The board shall advise the commissioner regarding any matters submitted to it for that purpose.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.064. SURVEY OR SUBDIVISION OF LAND. The board may have land surveyed or subdivided into tracts, lots, or blocks based on its determination of which method will be most conducive and convenient to facilitate the advantageous sale of land, the lease of land for oil, gas, or other minerals, or the commitment of land to a contract for development.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 17, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 4, eff. Sept. 1, 1993.

Sec. 32.065. PERMITS FOR SURVEYS OR INVESTIGATIONS. If land other than public school land is not under a valid lease or committed to a contract for development, the board may issue a permit for a geological, geophysical, or other survey or investigation of that land that will encourage the development of the land for oil, gas, or other minerals. The permit may be issued for the consideration and under the terms and conditions the board considers to be in the best interest of the state.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 18, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 5, eff. Sept. 1, 1993.

Sec. 32.066. EASEMENTS. (a) The board may grant easements of right-of-way on any land except:

(1) unsold public school land;

(2) the portion of the Gulf of Mexico within the jurisdiction of the state; and

(3) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits.

(b) The easements may be granted on terms and conditions the board considers to be in the best interest of the state.

(c) This section shall not apply to land owned by the Texas Department of Transportation.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 19, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(51), eff. Sept. 1, 1995.

Sec. 32.067. MARGINAL PROPERTY ROYALTY RATES. (a) In this section:

(1) "Barrel of oil equivalent" means 6,000 cubic feet of natural gas for each 42-gallon barrel of crude oil or a volume of gas with a minimum heating value of 6,000,000 British thermal units (6,000 Mbtu), whichever is greater.

(2) "Qualifying Gulf of Mexico property" means land described in Section 52.011(2) that is subject to a lease issued under Subchapter B, Chapter 52.

(3) "Qualifying Gulf of Mexico reservoir" means a reservoir that:

(A) during a period established by board rule has an average daily per well production equal to or less than 50 barrels of oil or barrels of oil equivalent; and

(B) underlies:

(i) a qualifying Gulf of Mexico property; or

(ii) a pooled unit that includes a qualifying Gulf of Mexico property.

(4) "Qualifying property" means land subject to a lease issued under this chapter, under Subchapter E, Chapter 51, or under Chapter 52.

(5) "Qualifying reservoir" means a reservoir that:

(A) during a period established by board rule has an average daily per well production equal to or less than 15 barrels of oil or barrels of oil equivalent; and

(B) underlies:

(i) a qualifying property; or
(ii) a pooled unit that includes a qualifying property.

(6) "Reservoir" has the same meaning as "common reservoir" as that term is defined in Section 86.002.

(b) The board by rule may provide for the reduction of royalty rates as provided by this section.

(c) The royalty rate for oil and gas produced from a qualifying reservoir may be reduced to not less than one-sixteenth (6.25 percent) for a term prescribed by the board. In determining whether to grant a reduction in the royalty rate, the board may consider whether the qualifying property is being operated efficiently, including whether the property is pooled or has reasonable potential for the application of secondary or tertiary recovery techniques.

(d) The royalty rate for the state's share under a lease issued under Subchapter F, Chapter 52, or Sections 51.195(c)(2) and (d) may be reduced under this section to not less than one-thirty-second (3.125 percent) for a term prescribed by the board. The state's royalty rate may be reduced under this subsection only if the royalty rate for the owner of the soil is reduced in the same proportion.

(e) The royalty rate under a lease issued under Subchapter C, Chapter 52, may not be reduced to a rate that is lower than the rate under lease of land that:

(1) adjoins the land leased under Subchapter C; and

(2) is held or operated by, or under the significant control of, the state's lessee.

(f) The royalty rate under a lease issued under Subchapter F of this chapter may not be reduced to a rate that is lower than the rate under a lease of land that adjoins the land leased under Subchapter F.

(g) If a qualifying reservoir for which a royalty rate reduction is sought under this section is included in a unit subject to the board's authority, the board may modify the terms and conditions for the unit as a condition of approving the requested reduction in the royalty rate.

(h) This section does not apply to the free royalty reserved by the state under Section 51.054.

Added by Acts 1995, 74th Leg., ch. 1007, Sec. 1, eff. June 17, 1995. Amended by Acts 1999, 76th Leg., ch. 1300, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. SALE AND LEASE OF LAND

Sec. 32.101. APPLICABLE LAW. Land shall be offered for sale, lease, or commitment to a contract for development subject to

the terms and conditions provided by law. Sales and leases of upland within 2,500 feet of a military base may not be made unless the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the sale or lease will not adversely affect the mission of the military base.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 6, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 149, Sec. 11, eff. May 27, 2003.

Sec. 32.102. LIST OF LAND. From time to time the commissioner shall furnish the board a list of land areas subject to the provisions of this chapter.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.103. APPRAISED VALUE OF LAND. (a) Except as provided in Subsection (b) of this section, no land may be appraised at less than \$2 an acre.

(b) Land located west of the Pecos River may be appraised at not less than \$1 an acre.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.104. APPRAISAL FEE. (a) The board shall charge applicants for the purchase of excess acreage and unsurveyed public school land an appraisal fee for appraising the acreage and land to determine the price at which it is to be sold by the state.

(b) The appraisal fee shall be in an amount set by the board, and any part of the fee which in the opinion of the board is unused shall be refunded to the applicant.

(c) The appraisal fee shall be paid to the commissioner who shall deposit all fees that are not refunded in the State Treasury in the fund provided under Section 32.110 of this code.

(d) The money deposited in the fund to the extent necessary is appropriated to the land office to pay salaries, travel expenses, and other expenses of personnel necessary to accomplish the appraisals or other work of the board.

(e) The provisions of this section are cumulative of other laws which are not in conflict, but if a conflict exists, this section is controlling.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.105. DATE FOR OPENING BIDS. The date for opening bids for the sale, lease, or commitment to a contract for development of land shall be the first or third Tuesday of the month.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 7, eff. Sept. 1, 1993.

Sec. 32.106. DESCRIPTION OF LAND. The description of public school land offered for sale, lease, or commitment to a contract for development shall be in accord with the description which may be found in the School Land Registry in the land office.

Acts 1977, 65th Leg., p. 2379, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 8, eff. Sept. 1, 1993.

Sec. 32.107. NOTICE OF SALE, LEASE, AND CONTRACT FOR DEVELOPMENT. (a) The board shall publish notice that the board will receive bids for the sale, lease, or commitment to a contract for development of land in at least three issues of at least four daily newspapers.

(b) The notice shall be published at least 30 days before the date the bids are advertised to be opened.

(c) The notice shall state that land is to be offered for sale, lease, or commitment to a contract for development on a certain date and at a certain time and the method of the sale, lease, or commitment to a contract for development and shall give notice that a person may obtain publications from the land office that describe the land offered for sale, lease, or commitment to a contract for development.

(d) The land office may solicit and include advertising in its publications. The commissioner shall deposit fees paid for advertising in land office publications in a separate account in the state treasury.

Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 20, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 897, Sec. 9, eff. Sept. 1, 1993.

Sec. 32.1071. LEASE SALES. (a) The sale of oil, gas, or other mineral leases shall be by sealed bid or at public auction or through a combination of public auction and sealed bid, as the board elects.

(b) Sections 52.015 through 52.020 of this code apply to the sale of leases by sealed bid.

(c) The leases shall be made on terms and conditions that may be prescribed by the board.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 21, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 10, eff. Sept. 1, 1993.

Sec. 32.1072. MINIMUM ROYALTY, BONUS, AND RENTAL. The board may not accept a bid on an oil and gas lease that offers:

(1) a royalty of less than one-eighth of the gross production of oil and gas; or

(2) a cash bonus of less than \$10 an acre.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 22, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 11, eff. Sept. 1, 1993.

Sec. 32.1073. FIXING ROYALTY, BONUS, AND RENTAL. In offering land for lease under this subchapter, the board may:

(1) set the royalty and rental and provide for bidding on a basis of the highest cash bonus offered; or

(2) set the cash bonus and rental and provide for bidding on the basis of the highest royalty offered.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 23, eff. Sept. 1, 1985.

Sec. 32.109. ACCEPTANCE AND REJECTION OF BIDS. (a) For each tract offered for sale, lease, or commitment to a contract for development, the board must accept the best bid submitted that meets the minimum requirements set by the board or by law or reject all bids.

(b) The minutes of the board shall reflect the acceptance or rejection of a bid.

Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 12, eff. Sept. 1, 1993.

Sec. 32.110. SPECIAL SALE FEE. (a) On land sales and mineral leases made by the board, the purchaser or bidder is required to pay by separate check an amount equal to one and one-half percent of the bid payable to the commissioner as a special fee.

(b) If the sale is by bid, only the special fees paid on the bids accepted by the board shall be deposited by the commissioner in the State Treasury as a special fund.

(c) Failure to pay the special fee shall not void a bid, but the commissioner shall demand payment of the fee before a lease is issued to the best bidder. If the best bidder fails or refuses to make the payment within 30 days after demand by the commissioner, the bidder is not entitled to a sale of or a lease on the tract covered by that bid and the cash bonus shall be automatically forfeited to be deposited by the commissioner in the State Treasury to the credit of the permanent school fund or the appropriate special mineral fund. The board, at its option, may offer the tract for sale or lease to the next best bidder under the same terms as submitted by and as would have been granted to the best bidder.

(d) Checks submitted by unsuccessful bidders shall be returned to the bidders.

Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 405, ch. 81, Sec. 21(n), eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 897, Sec. 13, eff. Sept. 1, 1993.

Sec. 32.111. ISSUANCE OF AWARD OR LEASE. Each award or lease shall be issued by the commissioner according to the minutes approved by the board.

Acts 1977, 65th Leg., p. 2380, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.112. SALE OF TAX FORECLOSURE PROPERTY. (a) All real property or any interest in real property placed in the name of the state as a result of foreclosure of a tax lien, whether the property was sold, bid off, or otherwise transferred to the state, may be sold or leased by the board in the same manner as provided for the sale or lease of land under Chapter 51, free of any lien of a taxing unit that was a party to the judgment in the delinquent tax suit involving the property for taxes imposed on the property, penalties, or interest that are due the taxing unit.

(b) A sale of property by the board under this section vests

in the purchaser of the property good and perfect title to the interest in the property owned by the person liable for the delinquent taxes. The purchaser has the right to the use and possession of the property, subject only to the person's right of redemption, a recorded restrictive covenant running with the land, and a valid easement of record as of the date the property was placed in the name of the state, if the covenant or easement was recorded before January 1 of the year in which the tax lien attached to the property.

(c) The board may retain from the proceeds of a sale or lease conducted under this section the cost of conducting the transaction, including advertising, appraisal, and administrative costs. The balance of the proceeds shall be deposited in the State Treasury to the credit of the Texas capital trust fund. The board is not required to pay any portion of the proceeds to a taxing unit that was a party to the judgment in the delinquent tax suit involving the property in satisfaction of any taxes imposed on the property, penalties, or interest that are due the taxing unit. Added by Acts 1987, 70th Leg., ch. 208, Sec. 10, eff. Aug. 31, 1987. Amended by Acts 1993, 73rd Leg., ch. 991, Sec. 8, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 861, Sec. 1, eff. June 18, 1997.

SUBCHAPTER E. CONDITIONS OF LEASES

Sec. 32.151. TERM OF LEASE. Each oil and gas lease shall be for a primary term not to exceed 10 years and for as long thereafter as oil or gas is produced in paying quantities.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 897, Sec. 14, eff. Sept. 1, 1993.

Sec. 32.152. ASSIGNMENT AND TRANSFER. A lessee may transfer or assign his lease at any time in the manner provided by Section 52.026 of this code.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985.

Sec. 32.153. LEASE RELINQUISHMENT. A lessee may relinquish his lease to the state at any time in the manner provided by Section 52.027 of this code.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985.

Sec. 32.154. LEASES SUBJECT TO LAWS, ORDERS, AND RULES. Drilling or mining operations for oil, gas, or other minerals and the production of oil, gas, or other minerals under a lease issued under this chapter are subject to:

(1) the laws of this state;

(2) valid orders made by the Railroad Commission of Texas or any other regulatory authority controlling the development of leases for the production of oil, gas, or other minerals; and

(3) rules the board adopts.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985.

Sec. 32.155. RENTAL AND ROYALTY PAYMENTS. (a) Each lessee or his assigns shall pay annual rentals and royalties as specified by the board.

(b) Subchapter D, Chapter 52 of this code applies to a lease issued under this chapter.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985.

Sec. 32.156. FORFEITURE. Each lease is subject to forfeiture by the commissioner under the conditions and in the manner provided by Section 52.176 of this code.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 24, eff. Sept. 1, 1985.

Sec. 32.157. SPECIAL ACCOUNTS. (a) Special funds are created in the State Treasury to be known as the Parks and Wildlife Department and the Texas Department of Corrections special mineral funds.

(b) All money collected as bonus, royalty, rental, payments for easements, and permit fees attributable to land covered by this chapter, other than land dedicated to the permanent school fund, shall be deposited in the special mineral fund of the department, board, or agency owning the land.

(c) To offset the costs of leasing and administering mineral leasing, all fees collected relating to leasing lands owned by boards, departments, or agencies, including the sales fee and any penalties collected shall be credited to the same fund account in the treasury as those similar fees collected in the leasing of land dedicated to the permanent school fund.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 50, eff. Sept. 1, 1985.

SUBCHAPTER F. LEASE OF HIGHWAY LANDS

Sec. 32.201. PREFERENTIAL RIGHT TO LEASE CERTAIN LAND BY ADJOINING MINERAL OWNER. (a) In this section, "mineral owner"

means any person who owns the right to explore for, develop, and produce oil and gas from a tract of land adjoining lands owned by the state that were or may be acquired to construct or maintain a highway, road, street, alley, or other right-of-way.

(b) Oil and gas under lands owned by the state that were or may be acquired to construct or maintain a highway, road, street, alley, or other right-of-way may be offered for lease under this chapter only after the oil and gas are first offered for lease to the mineral owner of the land adjoining the length of the land to be leased. The board shall set the terms and conditions of the lease as follows:

(1) In instances where the adjoining land is covered by an existing oil and gas lease currently in effect, the royalty, bonus, and rental shall be identical to those amounts contained in the lease covering the adjoining land or, in the event there is more than one lease covering adjoining land, shall be no less favorable to the state than the most favorable of such leases.

(2) In instances where the adjoining land is not covered by an existing oil and gas lease, the royalty, bonus, and rental for the lease shall be as provided in Sections 32.1072 and 32.1073 of this code.

(c) The preferential right of the mineral owner created by Subsection (b) of this section is subject to the following limitations:

(1) the lease of the oil and gas extends only to the center of the width of the particular highway, road, street, alley, or other right-of-way adjacent to the property in which the lessee is the mineral owner; and

(2) the preferential right to lease must be exercised by the mineral owner within 120 days of actual notice of the intention to lease as provided by Subsection (d) of this section.

(d) Actual notice, describing the land as required by Section 32.204 of this code, has occurred upon mailing of the notice of the intention to lease by registered mail to the last known address of the affected mineral owner or owners, if more than one, as determined from records of the county clerk for the county in which the land to be leased is located. If the identity or address of a mineral owner is not known, and cannot be located after a diligent search of the records of the county clerk and tax assessor-collector for the county in which the land is located, the actual notice required by Subsection (c) of this section shall be provided by publication. The notice shall be published in the manner provided in the Texas Rules of Civil Procedure for citation by publication in actions against unknown owners or claimants of interest in the land. Actual notice has occurred on completion of all procedures required by the Rules of Civil Procedure.

(e) To exercise the preferential right under this section, the mineral owner must tender to the commissioner the bonus set by the board, together with the appropriate statutory sales fee. The tender to the commissioner must be made on or before the end of the 120-day period provided by Subsection (c)(2) of this section.

(f) At any time during the 120-day period a mineral owner may waive his preferential right to lease by providing the General Land Office with a written waiver. Failure by the mineral owner to exercise his preferential right to lease the land within the 120-day period provided by Subsection (c)(2) of this section, or the filing of a written waiver, results in forfeiture of the preferential right to lease the land.

(g) If a mineral owner's preferential right is forfeited under this section, the land may be offered for lease by the board directly to an applicant or by sealed bid as provided by this chapter. The board shall not offer nor accept a price or terms which are less than that offered to the adjoining mineral owner under this section. If not leased at a public offering within 18 months from the date the lease was offered to the adjoining mineral owner, it shall be reoffered to the mineral owner prior to public offering in accordance with the provisions of this section.

(h) An adjoining mineral owner shall have the right to seek a judicial determination of the state's title to minerals beneath the adjoining highway right-of-way, and legislative consent to sue the state is hereby granted. Within 60 days of a final nonappealable judgment finding the state did not have title, or only had partial title, the state shall refund all or the proportionate part of any bonus, rental, royalty, and other consideration to the lessee. The state's lessee shall pay to the

lawful mineral owner the value of any oil and gas produced from or allocated to the minerals upon which the state's title failed. Added by Acts 1985, 69th Leg., ch. 327, Sec. 2, eff. June 8, 1985. Amended by Acts 1987, 70th Leg., ch. 948, Sec. 16, eff. Sept. 1, 1987. Renumbered from Sec. 34.0511 by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(c), (f)(1), (2), (g), eff. Sept. 1, 1987.

Sec. 32.202. POOLING. Any oil and gas lease offered under Sec. 32.201 of this code shall provide:

(1) authority for pooling all of the leased area into units of no more than 160 acres for an oil well or 640 acres for a gas well plus a 10 percent tolerance or of a unit size allowed under or prescribed by rules of the Railroad Commission of Texas;

(2) that the production allocable to the state lease shall be based upon the surface acreage of the state lease included in the unit;

(3) that the unit operations, production from any portion of the unit or payment of shut-in gas well royalty on a lease or unit well shall be considered for all purposes to be the conduct of operations and production on the state lease; and

(4) that neither unit production of oil or gas, nor unit operations, nor payment of shut-in royalties from a unit gas well, shall serve to hold the lease in force as to any area outside the unit, regardless of whether the production, maintenance of a shut-in gas well, or operations are actually located on the state tract or not.

Added by Acts 1985, 69th Leg., ch. 327, Sec. 3, eff. June 8, 1985. Renumbered from Sec. 34.0512 by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(b), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 642, Sec. 3, eff. Aug. 26, 1991.

Sec. 32.203. COMPENSATORY ROYALTY. Compensatory royalty shall be paid to the state on any lease offered and granted under Section 32.201 of this code if the lease is not being held by production on the tract, by production from a pooled unit, or by payment of shut-in royalties in accordance with the terms of the lease, and if oil or gas is sold and delivered in paying quantities from a well located within 2,500 feet of the leased premises and completed in a producible reservoir underlying the state lease or in any case in which drainage is occurring. Such compensatory royalty shall be paid at the royalty rate provided in the state lease based on the value of production from the well as provided in the lease on which such well is located. The compensatory royalty shall be paid in the same proportion that the acreage of the state lease has to the acreage of the state lease plus the acreage of the proration unit surrounding the draining well. The compensatory royalty is to be paid monthly to the commissioner on or before the last day of the month next succeeding the month in which the oil or gas is sold and delivered from the well causing the drainage or from the well located within 2,500 feet of the leased premises and completed in a producible reservoir under the state lease. Notwithstanding anything herein to the contrary, compensatory royalty payable under this section shall be no less than an amount equal to double the annual rental payable under the state lease. Payment of compensatory royalty shall maintain the state lease in force and effect for so long as such payments are made as provided in this section.

Added by Acts 1985, 69th Leg., ch. 327, Sec. 3, eff. June 8, 1985. Renumbered from Sec. 34.0513 by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(b), eff. Sept. 1, 1987.

Sec. 32.204. LEASE PROVISIONS. Any lease offered under Section 32.201 of this code shall contain a sufficient description of the land to be leased to enable the tract to be located on the ground. All other terms and conditions of the lease shall be identical to those contained in the lease covering such adjacent land, provided the terms and conditions are not inconsistent with any laws of this state. In the event there is more than one lease covering such land, the terms and conditions of the lease shall be no less favorable to the state than the most favorable of such leases. In those instances where the adjoining land is not covered by an existing oil and gas lease, all other terms and conditions of the lease shall be set by the board.

Added by Acts 1985, 69th Leg., ch. 327, Sec. 3, eff. June 8, 1985. Renumbered from Sec. 34.0514 by Acts 1987, 70th Leg., ch. 167, Sec.

6.05(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(b), (f)(3), eff. Sept. 1, 1987.

Sec. 32.205. RULES. The board may adopt rules to carry out the provisions of this chapter.

Added by Acts 1985, 69th Leg., ch. 327, Sec. 3, eff. June 8, 1985. Renumbered from Sec. 34.0515 by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 6.05(f)(4), eff. Sept. 1, 1987.

Sec. 32.206. RATIFICATIONS AND OTHER AGREEMENTS. (a) The board may approve by rule or order a ratification or other agreement that includes in the benefits of production a mineral or royalty interest in land owned by the state that was acquired to construct or maintain a highway, road, street, or alley.

(b) An agreement approved by the board under this section must be executed by the commissioner to be effective.

(c) This section does not apply to an interest subject to pooling or unitization by a lessee under a lease issued under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 897, Sec. 15, eff. Sept. 1, 1993.

SUBCHAPTER G. TRADE OF LAND

Sec. 32.251. AUTHORITY OF BOARD, IN CONJUNCTION WITH LAND OFFICE, TO TRADE LAND. The Board, in conjunction with the land office, may trade fee and lesser interests in land dedicated to the permanent school fund for fee and lesser interests in land not dedicated to that fund if the board and the commissioner determine that the trade is in the best public interest of the people of this state.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.252. AUTHORITY OF STATE AGENCY OR POLITICAL SUBDIVISION TO SELL OR EXCHANGE REAL PROPERTY. (a) A State Agency Or Political subdivision may directly sell or exchange real property belonging to the state agency or political subdivision with the board for land dedicated to the permanent school fund if the exchange is for fair market value.

(b) Section 272.001, Local Government Code, does not apply to an exchange under this section.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.253. PURPOSE OF TRADE. Land dedicated to the permanent school fund may be traded to:

(1) aggregate sufficient acreage of contiguous land to create a manageable unit;

(2) acquire land having unique biological, geological, cultural, or recreational value; or

(3) create a buffer zone for the enhancement of already existing public land, facilities, or amenities.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.255. DEED REQUIRED. (a) A trade of land dedicated to the permanent school fund may be made only by a deed signed jointly by the commissioner and the governor.

(b) The governor's failure to sign the deed is a veto of the proposed trade.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.256. DEDICATION OF ACQUIRED LAND TO FUND. Land acquired by the board by trade under this subchapter is dedicated to the permanent school fund.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.257. SUBSURFACE MINERAL RIGHTS. (a) If this state retains the subsurface mineral rights to the oil, gas, and other minerals in permanent school fund land traded under this subchapter, an unrestricted right of ingress to and egress from the land by this state and its lessees shall be retained for the purpose of exploration, development, and production of the oil, gas, and other minerals to which the rights are retained by this state.

(b) This state is entitled to lease the subsurface mineral rights retained under this section in the same manner and under the same conditions as subsurface mineral rights are leased in permanent school fund land in which this state owns the surface title and the subsurface mineral rights.

(c) A lessee of the subsurface mineral rights retained under this section is liable to the owner of the land for actual damages

to the land that may occur as a result of exploration for and development and production of the oil, gas, and other minerals to which rights are retained under this section.

(d) Notwithstanding anything to the contrary in this subchapter, the board, to complete a trade of equal value, may convey the surface estate and reserve the oil, gas, and other minerals, with the surface owner acting as agent for the state under:

(1) Subchapter F, Chapter 52, in leasing the land for oil and gas and receiving one-half the bonus, rental, and royalty for acting as agent for the state in leasing the land and as compensation for surface damages; or

(2) Subchapter C, Chapter 53, in leasing the land for sulphur, coal, lignite, uranium, or potash and receiving 40 percent of the bonus, rental, and royalty for acting as agent for the state in leasing the land and as compensation for surface damages.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.

Sec. 32.258. REPORT TO LEGISLATURE. (a) The board shall report to the legislature a trade of land dedicated to the permanent school fund. The board shall report the trade at:

(1) the first regular session of the legislature occurring after the trade if the legislature is not meeting in regular session at the time the trade is made; or

(2) the regular session of the legislature occurring at the time of the trade if the legislature is meeting in regular session at the time the trade is made.

(b) The report must state the facts that warranted the trade.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 13.001(a), eff. Sept. 1, 2003.